

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION

BERNADETTE CUNNINGHAM and )  
ROSALIND JOHNSON, Individually and )  
as Administratrix of the Estate of )  
NEKEYA MAGSBY, Deceased, )  
Plaintiffs, )  
VS. )  
MICHELIN NORTH AMERICA, INC., )  
and MICHELIN AMERICAN )  
RESEARCH & DEVELOPMENT CORP., )  
Defendants. )

No. 04-1144-T/An

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ORDER HOLDING MOTION IN ABEYANCE

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On October 21, 2005, the Michelin defendants filed a motion for summary judgment as to the plaintiffs' claims for punitive damages. Plaintiffs filed a response to the motion on November 18, 2005. In that response, plaintiffs state that they filed a motion to compel discovery from the defendants on May 16, 2005. It is asserted, pursuant to Fed. R. Civ. P. 56(f), that the discovery sought is necessary in order to fully respond to the motion for summary judgment on punitive damages. Therefore, plaintiffs request that the motion for summary judgment as to punitive damages be held in abeyance pending resolution of the motion to compel and the completion of any discovery allowed.

As it appears that the discovery sought by plaintiffs, if allowed, may be pertinent to the issue of whether the defendants engaged in conduct warranting an award of punitive damages, the plaintiffs' request is granted. The motion for summary judgment on punitive damages is hereby held in abeyance pending the completion of discovery.

The current discovery deadline is January 23, 2006. Accordingly, plaintiffs are hereby allowed until February 23, 2006 to respond to the defendants' motion for summary judgment as to the claims of punitive damages. If the discovery deadline is extended, plaintiffs may seek an additional extension of time to respond, if necessary.

IT IS SO ORDERED.

*James D. Todd*  
\_\_\_\_\_  
JAMES D. TODD  
UNITED STATES DISTRICT JUDGE  
*5 December 2005*  
\_\_\_\_\_  
DATE



## Notice of Distribution

This notice confirms a copy of the document docketed as number 85 in case 1:04-CV-01144 was distributed by fax, mail, or direct printing on December 9, 2005 to the parties listed.

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US DISTRICT COURT